

36. **(previously presented)** The adjustable control pedal according to claim 35, wherein the first and second guide slots are inclined.

37. **(previously presented)** The adjustable control pedal according to claim 33, wherein the drive slot is inclined.

38. **(new)** The adjustable control pedal according to claim 1, wherein the lower arm is located adjacent a first lateral side of the drive slot of the upper arm and the screw is located adjacent second lateral side of the drive slot of the upper arm opposite the first lateral side so that the lower arm and the screw are located on opposite lateral sides of the drive slot of the upper arm and the nut laterally extends through the drive slot from the lower arm to the screw.

39. **(new)** The adjustable control pedal according to claim 26, wherein the lower arm is located adjacent a first lateral side of the drive slot of the upper arm and the screw is located adjacent second lateral side of the drive slot of the upper arm opposite the first lateral side so that the lower arm and the screw are located on opposite lateral sides of the drive slot of the upper arm and the nut laterally extends through the drive slot from the lower arm to the screw.

40. **(new)** The adjustable control pedal according to claim 33, wherein the lower arm is located adjacent a first lateral side of the drive slot of the upper arm and the screw is located adjacent second lateral side of the drive slot of the upper arm opposite the first lateral side so that the lower arm and the screw are located on opposite lateral sides of the drive slot of the upper arm and the nut laterally extends through the drive slot from the lower arm to the screw.

REMARKS

In the Office Action mailed December 30, 2004, the Examiner rejected claims 1 to 5 and 22 to 37. The rejections are each respectfully traversed. This Amendment "D" cancels no claims, amends claims 1, 22, 26, and 33, and adds new claims 38 to 40. Accordingly, claims 1 to 5 and 22 to 40 are now pending in this application.

Claims 1 to 5, 22 to 37 were rejected under 35 U.S.C. 103(a) as unpatentable over Sitrin (US 4,875,385) in view of Willemsen et al. (US 6,151,986).

Claims 1, 26, and 33, and claims dependent therefrom, are allowable because they each include the limitations of “a screw carried by the upper arm so that the screw moves with the upper arm as the upper arm pivots about the pivot axis and remains at a fixed location relative to the upper arm as the lower arm is selectively moved relative to the upper arm” and “a nut . . . laterally extending through the drive slot from the lower arm to the screw.”

Sitrin discloses securing the drive screw 46 to the mounting bracket 34 so that the drive screw is fixed in position and never moves. Therefore, the drive screw 46 does not move with the upper arm 36 as the upper arm 36 pivots during application and also the position of the upper arm 36 moves relative to the drive screw 46 as the lower arm 38 is moved relative to the upper arm 36. Willemsen et al. does not cure this defect because the screw of Willemsen et al. is carried by the lower arm 20 so that the screw does not remain in a fixed position relative to the upper arm.

Sitrin also discloses a screw 46 which extends between the upper arm 36 and the lower arm. The nut 52 is therefore adjacent the lower arm and there is no need for a drive slot as defined by claims 1, 26, and 33. The slot 36e in the upper arm 36 serves a completely different purpose (movement of the pivot axis) than the drive slot of claims 1, 26, and 33 (access between the screw and lower arm). Willemsen et al. does not cure this defect because the screw and nut are both located within the lower arm 20 and adjacent the lower arm. Willemsen et al. has no need for a drive slot (as defined by claims 1, 26, and 33). The slot 22 in the upper arm serves a completely different purpose (as a guide slot to control movement between the upper and lower arms) than the drive slot of claims 1, 26, and 33 (access between the screw and lower arm).

Accordingly, no prior art of record discloses or reasonably suggests the present invention as defined by claim 1. Reconsideration and withdrawal of the rejection is requested.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that that the present amendment does not place the application in a condition for allowance, applicant's undersigned attorney requests that the examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,

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May 26, 2004

A handwritten signature in black ink, appearing to read "Richard M. Mescher", written over a horizontal line.

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